THE HONOURABLE SMT JUSTICE T. MEENA KUMARI

AND

THE HONOURABLE SRI JUSTICE P. LAKSHMANA REDDY

WRIT PETITION NO: 6129 OF 2001

DATED: 05.10.2005

Between:

N.Srirama Charyulu

..Petitioner

and

1.The Superintendent of Post Offices, Tenali Postal Divison, Tenali Dist, Tenali and others

..Respondents

THE HONOURABLE SMT JUSTICE T. MEENA KUMARI

AND

THE HONOURABLE SRI JUSTICE P. LAKSHMANA REDDY

WRIT PETITION NO: 6129 OF 2001

ORDER: (Per the Hon'ble Smt Justice T.Meena Kumari)

Seeking a direction to the official respondents to regularize the services of the petitioner as ED/BPM, Bellamvaripalm on regular basis in view of completion of more than three years of provisional service, by setting aside the order of the Tribunal dated 14.3.2001 in O.A.No.195 of 2001 and O.A.No.211 of 2001, as illegal and arbitrary, the present writ petition has been preferred.

The petitioner is the applicant in O.A.No.211 of 2001 and 4th respondent is the applicant in O.A.195 of 2001 before the Tribunal. The status of the parties will be referred to as arrayed before the Tribunal.

The case of the petitioner is that he has been working as Provisional ED/BPM of Bellamvaripalem Post Office. On 29.12.1997 respondents issued a notification for filling up of the post of ED/BPM, Bellampalli, reserving the post for ST candidate. Questioning the said notification, the petitioner filed O.A.No.195 of 1998 but the same was dismissed. Subsequently, the 1st respondent issued another notification for filling up of the post by general category candidates on 4.5.1999. On that, the petitioner filed M.A.No.423 of 1999 in O.A.195 of 1998 and the same was disposed of by directing the official respondents not to take any action on the notification until further orders. As the order was not complied with by the official respondents, the petitioner filed CP No.76 of 2000 in O.A.No.195 of 1998 and the CP was disposed of directing the respondents to continue the petitioner as provisional ED/BPM. The petitioner filed another O.A.No.211 of 2001 and the Tribunal having observed that the period during which the provisional EDBPM was in service because of the stay orders of the Tribunal cannot be counted for the purpose of calculating 3 years of service for the purpose of placing him in the waiting list and the applicant cannot be said to have completed three years. Challenging the same, the present writ petition is filed by the petitioner.

The contention of the learned standing counsel appearing on behalf of the Central Government that the applicant was not selected through the notification issued on 4.5. 1999 and, hence, he is not entitled for the relief as sought for in the writ petition.

The learned counsel appearing on behalf of the 4th respondent has submitted

that the 4th respondent has been selected vide orders dated 14.11.2000 and the said appointment is on provisional basis and therefore, the order passed in O.A.No.211 of 2001 as well as 195 of 2001, needs no interference by this Court.

Heard the learned counsel appearing on behalf of the parties.

It is not out of place to mention that this is nothing but a fourth round of litigation as to the dispute by the applicant from the date of the notification issued by the official respondents. In the first instance, the O.A. filed by the applicant in O.A.195 of 1998 challenging the notification 21.12.1997, was dismissed. Subsequently the O.A. 195 of 2001 filed by the 4th respondent challenging the cancellation of his appointment order, was allowed by the Tribunal directing the official respondents to issue appointment order to him. Consequently, the applicant has filed O.A.No.211 of 2001 seeking for treating the three years as provisional appointee and for placing his name in the waiting list and the said O.A was dismissed. Having aggrieved by the orders passed in O.A.No. 195 of 2001and O.A.No.211 of 2001, the present writ petition is filed.

The material on record goes to show that he is not a party to the proceedings in O.A.No.195 of 2001, which was allowed directing the respondents to give appointment order to the 4th respondent. If that being the case, if at all the applicant has got any grievance, he ought to have been impleaded himself as a party-respondent therein and agitate his rights. Without impleading himself as a party – respondent , he cannot challenge the order in O.A.195 of 2001 by way of filing this writ petition.

Now coming to the present O.A.No.211 of 2001 filed by the applicant seeking to treat his three years as a provisional appointee, the period during which the applicant was in service by virtue of the stay orders of the Tribunal cannot be counted and considered for the purpose of calculating three years of service to infer that he has completed three years service as rightly observed by the Tribunal. Thus, the attempts made by the applicant from the date of notification till the appointment of the 4th respondent became futile. In any view of the matter, the order of cancellation of appointment of the 4th respondent has been set aside by the Tribunal.

In this background of the matter, we have no hesitation to hold that the applicant has not come to the Court with clean hands and there are no merits to entertain the present writ petition. Accordingly, the same is liable to be dismissed.

In the result, this writ petition is dismissed.

At this stage it is submitted by the learned counsel for the 4th respondent that the appointment orders have already been issued on 14.11.2000 and therefore, a direction may be issued to effect the same.

In view of the dismissal of this writ petition and in view of the submission made by the learned counsel and in view of the appointment orders dated 14.11.2000, we deem it appropriate to direct the official respondents to effect the appointment orders dated 14.11.2000 forthwith to the 4th respondent.

However, it is made clear that the dismissal of this writ petition will not come in the way of the petitioner to apply for the posts, if any in future, if he so desires.

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JUSTICE T.MEENA KUMARI

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JUSTICE P.LAKSHMANA REDDY

05.10.2005

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Note:

Furnish CC by tomorrow.

(B/o)

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